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DATE: July 15, 2011

TO: Medicare Advantage (MA) Organizations and Prescription Drug Plan (PDP) Sponsors (excluding PACE and Employer Group/800 series only contracts), and Medicare Cost Contractors

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SUBJECT: *Update* - Contract Year 2012 Translated Marketing Materials Requirements and Methodology

In the memo we released on June 15, 2011 entitled “Contract Year 2012 Translated Marketing Materials Requirements and Methodology,” we alerted MA organizations and Part D sponsors that CMS recently codified a new 5% standard for translating marketing materials. Specifically, Medicare Part C and Part D sponsors (plan sponsors) must translate marketing materials into any non-English language that is the primary language of at least 5 percent of the individuals in a plan benefit package (PBP) service area.

The memo also announced that CMS would begin providing translations of specific 2012 model marketing materials to alleviate some of the translation burden on plan sponsors and to provide consistency among translated materials. We also announced that CMS recently updated the Health Plan Management System (HPMS) Material Language Lookup module with language translation data for each 2012 plan benefit package (PBP), and we provided a detailed methodology for those plan sponsors that either wanted to confirm the results of the analysis themselves, or needed to conduct it because their 2012 service area as designated in HPMS changed after May 6, 2011.

The purpose of this new memo is to clarify which specific model materials CMS will be able to translate for 2012; provide a streamlined methodology for conducting the analysis of which PBPs require translations; and provide answers to questions we have received about the June 15 memo.

CMS Translations of Model Marketing Materials

CMS will translate those 2012 model marketing material listed below in Table 1. In the June 15 memo we advised plan sponsors that CMS was continuing to explore whether we would be able

to translate additional documents for the 2012 marketing season, indicated by “TBA” in the original table. The below table has been updated to indicate that CMS will not be able to provide translated models for the PFFS and PPO ANOC/EOCs, comprehensive or abridged formulary, pharmacy directory, provider directory, or transition letter (all noted as “TBA” in the June 15 memo). For CY2013, CMS expects to translate all of the models listed in Table 1 into both Spanish and Chinese.

Table 1: 2012 Marketing Material Translations

2012 Required Translated Marketing Material	Version	CMS <u>Spanish</u> translation of model available	CMS <u>Chinese</u> translation of model available
ANOC/EOC	MA-PD (HMO)	08/05/2011	08/05/2011
	PDP	08/05/2011	NA
	PFFS	Not produced	Not produced
	PPO	Not produced	Not produced
	MA-only	Not produced	Not produced
Enrollment forms	MA & MA-PD	08/23/2011	08/23/2011
	PFFS	08/23/2011	08/23/2011
	PDP	08/23/2011	NA
Explanation of Benefits	PDP	09/10/2011	NA
Formulary	Comprehensive	Not produced	Not produced
	Abridged	Not produced	Not produced
Pharmacy Directory	Part D	Not produced	Not produced
Provider Directory	Part C	Not produced	Not produced
Transition Letter	Part D	Not produced	Not produced
Enrollment Kit (contains items below) <i>These materials are all non-model, and CMS will <u>not</u> be producing translations.</i> <ol style="list-style-type: none"> 1. Cover letter 2. Enrollment instructions 3. Notice that benefits may change year to year 4. Grievance, coverage determination, and appeals process information 5. Notice plan may not be available next year 6. Plan Ratings information 7. Summary of Benefits 			

Table 1 Key

Not produced – CMS will not translate this model material for the 2012 contract year.

NA – This language translation is not required because none of the 2012 PDPs met the 5% threshold for Chinese.

Update of Material Language Lookup Module Data Methodology

As described in the June 15 memo, to aid plan sponsors in determining for which languages they need to produce marketing materials, CMS recently updated the Health Plan Management System (HPMS) Material Language Lookup module with language translation data for each 2012 plan benefit package (PBP). CMS' contractor, Fu and Associates (Fu), determined which 2012 PBPs need to provide translated materials by using the U.S. Census Bureau's American Community Survey (ACS) data. Please be aware that the data in the Material Language Lookup module is based upon the 2012 service area data (both existing and pending counties/states) CMS displayed in HPMS for a PBP as of May 6, 2011. If changes to your plan's service area were reflected in HPMS after May 6, 2011, then your organization *cannot* rely on the data in the Material Language Lookup module and must conduct its own analysis using the methodology in Appendix A.

Based on questions we have received since publishing the June 15 memo, we have updated the methodology in Appendix A to streamline and clarify the analysis instructions. If you have already conducted your analysis using the original instructions, you do not need to re-do your analysis using the revised instructions, as the results should be the same. The main difference in the revised instructions is that we eliminated the need to use the "C" series data (e.g., table C16001), as initially described in steps 2.1A through 2.1M. The revised instructions rely solely on the "B" series data to conduct the entire analysis (e.g., table B16001).

Questions and Answers

We have received several questions from plan sponsors pertaining to the June 15 memo. These questions and their answers are listed below.

Question 1: Are sponsors required to use the CMS-produced translations of the models, or may they arrange for their own translations of the models?

Answer 1: Sponsors may certainly continue to produce their own translations of the model documents, if they so choose.

Question 2: If sponsors use the CMS-produced translations of the models, may they modify certain word choices? For instance, Spanish speaking beneficiaries in Puerto Rico may be familiar with certain translations of health care terminology that may differ from how those terms are typically translated for Spanish speakers in the 50 states.

Answer 2: Yes, sponsors should adapt the translations to accommodate the particular language needs of their members.

Question 3: Did the material language analysis conducted to determine translation requirements include 2012 "pending" counties that were in the system as of May 6, 2011?

Answer 3: Yes, pending counties were included in the analysis.

Question 4: What should sponsors do if they identify any problems with the CMS-produced translations?

Answer 4: Plan sponsors should correct any problems with the translations and report the concern to CMS (Gregory.Bily@cms.hhs.gov).

Question 5: Do the translation requirements apply to Cost plans?

Answer 5: Yes, the translation requirements apply to Cost plans. We apologize for erroneously indicating in the June 15 memo that the requirement does not apply to Cost plans. Some Cost plans may not be able to find results for their plans in the materials language lookup module, and if that is the case, will therefore need to conduct their own analysis using the methodology in Appendix A.

If you have any questions about this memo, please contact Jennifer Shapiro, Director, Division of Benefit Purchasing and Monitoring at Jennifer.Shapiro@cms.hhs.gov or (410) 786-7407.

Appendix A

Methodology to Identify Plan Benefit Packages (PBPs) With Limited-English-Proficient (LEP) Populations

The purpose of this document is to help Medicare Part C and D plan sponsors verify the language use and translation requirements for each plan benefit package (PBP) service area. Plan sponsors must translate specific marketing materials¹ into any language that is the primary language of at least 5% of the individuals in a PBP service area. These steps assume that you will be downloading data and working with them in a program of your choice (Excel, SPSS, STATA, SAS, etc.). Specific instructions for using the programs are not given.

Step 1: Service Areas

- A. Obtain plan's 2012 service area data from Health Plan Management System. If your service area covers multiple counties, rather than states, you will be calculating percentages at the county level.
- B. If your service area covers a partial county, treat it as though it covered the whole county.

Step 2: Determine Percentage of LEP Population in Each State or County

For this step, you will need to download data from one or more of the following three U.S. Census Bureau's American Community Survey datasets:

- A. American Community Survey (ACS) 2009 1-year estimates,
- B. American Community Survey (ACS) 2007-2009 3-year estimates, and/or
- C. American Community Survey (ACS) 2005-2009 5-year estimates.

All of these datasets are available at:

http://factfinder.census.gov/servlet/DatasetMainPageServlet?_program=ACS&_submenuId=&_lang=en&_ts=

The ACS surveys are conducted on an ongoing basis and sent to roughly 250,000 people per month. ACS surveys represent more current information than the Decennial Census, though the most current survey (the 1-year estimates) is only available for counties with populations greater than 65,000; the 3-year estimate is only available for counties with populations greater than 20,000. The 5-year estimate covers all counties.

Step 2.1: Obtaining Data

To obtain the data needed to determine statistics for the populations of language speakers in your service area and the ability to speak English at home follow these steps.

- A. Go to www.census.gov (the U.S. Census website).
- B. Click on "American Fact Finder," along the left side of the website.
- C. On the right half of the website, click on the link for the Legacy American Fact Finder.
- D. On the left side of the website, click "Download Center."

¹ See Table 1 in the main body of this memo.

- E. Under “American Community Survey,” click “2009 American Community Survey 1-Year Estimates.”
- F. Select the geographies that match your service area; either “All States” or “All Counties.” Under “Select a Download Method,” the option “Selected Detailed Tables” should be pre-selected. If it is not, select it.
- G. Click “Go.”
- H. This will take you to the list of variables on the “Select Tables” screen. In the “Show all tables” tab, scroll down and select **B16001: Language Spoken at Home by Ability to Speak English for the Population 5+ Years**, and click “Add”; then click “Next.”
- I. This will take you to a page called “Download Center.” Click “Start Download.”
- J. Save the file and unzip it. The files are pipe-delimited .txt files. The pipe is this character: | Convert the file to a usable form with your chosen program (Excel, etc.). There are 3 files: one called Readme, one called dc_acs_2009_1yr_g00__data1 and one called dc_acs_2009_1yr_g00__geo. The Readme lists the variables in the set. The one called **dc_acs_2009_1yr_g00__data1** is the one that contains the data you will use. The last one contains a list of the geographies in the set.
- K. Everything you need to calculate LEP percentage is in the file **dc_acs_2009_1yr_g00__data1**. The file contains the following information for states or counties. Below are the names of the columns you will need to use to calculate the LEP population. Variable #2 will ultimately be used as the denominator for your calculations. Variables 3 through 9 will be used to develop the numerators for your calculations. (Note: Every language variable has a Margin of Error (MOE) estimate after it. You can ignore these. Also note that these variables may reflect the aggregation of languages as documented in Appendix B.)
 1. Geography
 2. Universe: POPULATION 5 YEARS AND OVER: Total (Estimate)
 3. Universe: POPULATION 5 YEARS AND OVER: Spanish or Spanish Creole; Speak English less than very well (Estimate)
 4. Universe: POPULATION 5 YEARS AND OVER: French (including Patois, Creole, Cajun); Speak English less than very well (Estimate)
 5. Universe: POPULATION 5 YEARS AND OVER: German or other West Germanic languages; Speak English less than very well (Estimate)
 6. Universe: POPULATION 5 YEARS AND OVER: Korean; Speak English less than very well (Estimate)
 7. Universe: POPULATION 5 YEARS AND OVER: Chinese; Speak English less than very well (Estimate)
 8. Universe: POPULATION 5 YEARS AND OVER: Vietnamese; Speak English less than very well (Estimate)
 9. Universe: POPULATION 5 YEARS AND OVER: Tagalog; Speak English less than very well (Estimate)

- L. **If there are any states/counties in your plan’s service area where the data field was blank or that were not in the 1-year ACS estimate dataset, called dc_acs_2009_1yr_g00__data1**, then repeat the above steps, with the following exception: Instead of clicking on the 2009 American Community Survey 1-Year Estimates in Step 2.1.E., click on the **2007-2009 American Community Survey 3-Year Estimates**. Then proceed with the rest of the steps above.
- M. **If there are any states/counties in your plan’s service area where the data field was blank or that were not in the 1-year ACS estimate OR the 3-year ACS estimate**, then you will need to use data from the **2005-2009 5-year ACS estimate**² to obtain data for the missing counties.

Note on Missing States/Counties:

If you are obtaining data from multiple datasets, you will have to merge the datasets before performing the calculation steps in the next section. When you do this, be careful to only add data for the states/counties that are missing in the more recent datasets. (For instance, 3-Year ACS data would be added to 1-Year ACS data, without replacing any data for the states/counties that are in the 1-Year ACS set.)

Step 2.2: Calculating the 5% Less Than Very Well (LTVW) Population Percentages

- A. Note that the quality of English spoken at home variables (B Series) need to be aggregated to the appropriate categories based on the Appendix B crosswalk.
- B. Once you have obtained the population and language data for all states and/or counties in your plan’s service area, make sure that you have merged all datasets (ACS 1-Year, ACS 3-Year, and/or ACS 5-Year, if applicable).
- C. Using the variable “Total Population 5 Years and Over” (see Obtaining Data step 2.1.K.), sum this variable across all states and/or counties in your plan’s service area to create a **Grand Total Population 5 Years and Over** for your service area (this will be your denominator for all languages).
- D. For each language other than English (see Obtaining Data steps 2.1.K), sum the number of individuals who speak that language and English less than very well in all states and/or counties in your plan’s service area to create a **Grand Total of Individuals Who Speak a Given Language and English Less Than Very Well** for your service area (this will be your numerator for each specific language calculation).
- E. For each language, divide the **Grand Total of Individuals Who Speak a Given Language and English Less Than Very Well** in the service area by the **Grand Total Population 5 Years and Over** in the service area. For every language for which this number is 5% or greater, the plan must provide translated marketing materials.

² If the column labels are missing from the second row of the 5-year file, copy over the column labels from either the 1-year or 3-year files.

Appendix B: Differences in Language Variables between 2000 Census and ACS

This table described how to combine the language categories in the 2000 Decennial census so that they match the categories in the American Community Surveys.

Language Category in 2000 Census	Language Category in ACS
English	English
Spanish or Spanish Creole	Spanish
French (incl. Patois; Cajun) French Creole	French
German Yiddish Other West Germanic Languages	German
Russian Polish Serbo-Croatian Other Slavic Languages	Slavic
Italian Portuguese or Portuguese Creole Scandinavian Languages Greek Armenian Persian Gujarathi Hindi Urdu Other Indic Languages Other Indo-European Languages	Other Indo-European
Korean	Korean
Chinese	Chinese
Vietnamese	Vietnamese
Tagalog	Tagalog
Japanese Mon-Khmer; Cambodian Miao; Hmong Thai Laotian Other Asian Languages Other Pacific Island Languages	Other Asian Pacific Island
Navajo Other Native North American Languages Hungarian Arabic Hebrew African Languages Other and unspecified languages	Other